Supreme Court, U.S.
FILED
MAY 19 1994
OFFICE OF THE CLERK

No. 93-1598

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1993

ROBERT G. STEELE, Petitioner

v.

STATE BAR OF MONTANA, ET AL

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE
SUPREME COURT OF THE STATE OF MONTANA

# PETITIONER'S REPLY BRIEF

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## CORRECTION TO RESPONDENT'S STATEMENT OF THE CASE

Beginning on Page 5 of Respondent's Statement of the Case, Allen B. Chronister, Counsel of Record, begins a mischaracterization of the facts of this case that is so irresponsibly false that it defies justification. The false representations continue until the end of Respondent's Statement on Page 12. Petitioner has filed a separate action against Chronister for this deceit.

While Chronister's misrepresentations are particularly egregious, this type of twisted response has been typical of the IRS agents' letters to the Bar and their responses at the hearings and depositions. Petitioner exposed most of the agents' false claims during those proceedings but the Bar appears to condone such behavior.

Chronister claims on Page 6 that petitioner filed 1982 and probably the 1983 "5th Amendment" returns before a criminal investigation was started. This is a truly preposterous assertion. Petitioner's 1982 return contained the words "See Attached" on the lines for Schedule C and Schedule D. The Attachment includes a reference to petitioner's association with the Golden Mean Society and the statement:

"The Golden Mean Society is now under Grand Jury investigation.

Taxpayer believes that tax return information requested on his 1982 income tax return could furnish a link in the chain of evidence needed to prosecute him of a federal crime.

Objection is therefore taken under the Fifth Amendment to the Constitution of the United States."

His 1983 return contained the statement:

"I am a CPA currently under criminal

investigation by the Internal Revenue Service in conjunction with the investigation of the Golden Mean Society."

Petitioner's fear was that if the IRS knew who his tax or investment clients were, they would offer them deals in exchange for false or misleading testimony against petitioner. Petitioner believed that if he provided the numbers he could be required to submit the underlying business records which would include his client's names.

On Page 5, Chronister begins his mischaracterization of the petitioner's tax returns. Except for the "0" which appeared on most lines, none of Chronister's statements is true. Petitioner listed his interest income as $515, not $1,000 as Chronister claims. Neither the phrases "privacy & self incrimination, object 4th & 5th

Amendment", nor anything close, ever appeared on any return filed by petitioner.

Petitioner did, however, write a letter dated February 25, 1983, to IRS stating that he was considering filing such a return and asked to meet with IRS officials to discus his concerns about the distribution of his return information. A return form marked "EXAMPLE ONLY" in two-inch red letters was attached. IRS fined petitioner $500.00 for this letter, claiming that it constituted the filing of a "frivolous return".

Petitioner paid $75.00 (15% of the $500.00 was required to challenge the fine) and appealed to the Federal District Court. Petitioner's argument to the District Court was that the "EXAMPLE ONLY" form attached to his letter did not

constitute a "filing". The District Court dismissed petitioner's action and petitioner appealed to the Ninth Circuit. The Ninth Circuit remanded the case to the District Court to redetermine whether the return was, in fact, a filing. The United States Attorney filed a motion to dismiss and IRS refunded petitioner's $75.00 plus interest. Chronister takes exception on Page 9 of his Brief to petitioner's characterization that he "won" the case. Petitioner continues to believe he won and wonders why that idea is so offensive to Chronister?

The above case is the one that the Montana court, the Bar, and Chronister belabor as having been omitted from petitioner's application. On Page 9 Chronister claims that "Steele claimed that he "forgot" to list this matter. . ."

In reality, as petitioner points out on Page 13 of the Petition, he was never given the opportunity to explain it because it was not until the Committee's final decision that he learned that the case had been omitted from his application. Chronister's statement is totally improper.

Chronister claims on Page 7 that petitioner's justification for not having paid the taxes is that he lost the money he could have used for that purpose by investing it in "commodities futures". He then accuses petitioner of trying to justify his inability to pay with an inconsistent story about "commodities futures losses".

In actuality, petitioner made the following explanation in paragraph 3 of Statement 3 of his Application to the Bar:

A contributing factor to not being able to pay these taxes is that I lost all my capital in the stock market about 1983. While this has diminished my ability to pay, it has not helped the tax problems because capital losses are only allowed to offset ordinary income to the extent of $3,000.00 per year. They are also not deductible for self-employment tax purposes. I have learned however, that IRS has a compromise procedure for situations like this and I intend to utilize this procedure as soon as I have something to offer. The total amount due, both to State and Federal, currently approximates $150,000.00, including penalty and interest. A large portion of this would be currently dischargeable in bankruptcy. I do NOT intend to resort to bankruptcy since the debt is a legitimate result of a mistake I made.

When asked by a Committee member to explain why he didn't pay the tax and fight about the information later, petitioner responded:

> . . . It would have been better to do it that way. I wish I would have done it that way . . .

Any accusations that petitioner's application or statements were

inconsistent or lacked candor are without merit. One can only speculate from where Chronister obtained information about "commodities futures".

Chronister implies on Page 8 that there was something wrong with petitioner's offer-in-compromise and he states that "Neither offer was accepted by the taxing entities . . ." While this is technically true, it should be noted that the State agreed to accept the offer if the IRS did and IRS gave petitioner's association with the Golden Mean Society as the only reason for rejection.

Chronister, on Page 11, distorts a statement that petitioner made on Page 8 of the Petition. By this devious ploy and a reference to IRS form letters, Chronister attempts to belittle petitioner for his assertion that "IRS never

challenged the validity of these actions nor the returns." The fact is petitioner did receive standard form letters requesting more information. These hardly amount to a "challenge" when you consider that IRS could have attempted to fine petitioner or instigated a criminal investigation. Chronister claims they did both. The record is clear they did neither.

Chronister is referring to the attempt by IRS to fine petitioner for writing a letter. As explained above, IRS eventually conceded and refunded petitioner's money.

With respect to the criminal investigations, the special agent who conducted them wrote the following response, in relevant part, to the Bar's inquiry:

Mr. Steele has been the subject of two criminal investigations. In the early 1980's, STEELE was the subject of a Grand Jury investigation which looked at an alleged conspiracy to impede and impair the Internal Revenue Service . . . because of his affiliation with the GOLDEN MEAN SOCIETY . . .

The second investigation was in the late 1980's and centered around the alleged failure to pay taxes due and owing by MR. STEELE. . . . it was determined, MR. STEELE had not falsified any documents or secreted away any funds in order to not pay the IRS. . .

But Chronister is not yet done with his attempts to deceive this Court! On Page 12 he claims impropriety in petitioner's claim that IRS District Counsel admitted his returns were not in violation of the law and then Chronister states:

Further, the IRS District Counsel, Virginia Cochran, testified only that willful failure to file a return constituted criminal conduct. (Transcript of March 5, 1992, at 26.)

In truth, Ms. Cochran was, on that same

page, asked the following question:

STEELE: Is it true that if someone's under criminal investigation, they don't have to give the information to the Internal Revenue Service?

and answered on that same page:

COCHRAN: I suspect that if a person is under any investigation, they don't have to give any information.(Transcript of March 5, 1992, at 26.)

The misstatements by Chronister in Respondent's Brief in Opposition to Petition for Writ of Certiorari are the only reason for this Reply. These misstatements are illustrative with the actions of IRS and the Bar throughout these proceedings.

Respectfully submitted

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## ARGUMENT

That this issue is of sufficient importance to be considered by this Court, is not because petitioner has been denied the right to practice law, for given the state of the Montana Bar, this denial has been a Godsend! But the revelation that petitioner's denial of due process and equal protection is due to the fact that the Montana Bar is controlled by the IRS is of great concern. All the liberties protected by the system of checks and balances of the separation of powers established by the Constitution of the United States and mirrored in the Constitution of the State of Montana are in jeopardy. To surrender the Constitution is to surrender to lawlessness. These efforts of IRS must be resisted.

Petitioner does not challenge the sufficiency of procedural due process to the level of the Supreme Court of Montana. Petitioner challenges the integrity of that process. The same deceitfulness evidenced by Chronister has been present throughout the entire proceedings. For the Bar, this has been a search, not for truth and justice, but for justification. Given the role of the Bar in shaping policy in modern society, it bodes ill for our integrity as a nation.

As an illustration of this deception, petitioner refers to references in the Findings and Opinions to his "tax protest activities." The unwarranted onslaught by agents of IRS to the Bar consisted entirely of unsubstantiated hearsay except for a letter from the Criminal Investigation Division written by the

Special Agent who conducted both investigations. He explained:

> . . . Although STEELE was affiliated with the GMS, his affiliation was more economical than anything else. Mr. STEELE basically handled tax audits and provided tax related testimony to organizational members in return for a fee, which was subsequently reported. It appeared that Mr. STEELE's association with the GMS was a means to acquire clients, not necessarily in promoting the GMS philosophy of not filing tax returns. (Special Agent's letter dated 7/8/91, at 2).

Yet the Montana court chose to adapt the hearsay versions and justify itself by attempting to parlay harmless oversights into unexplainable atrocities. If the Montana Bar and court were honorable, they would simply base their case on petitioner's admitted mistake of not making his estimated tax payments. But their actions to select evidence, distort facts and manufacture reasons illustrate a guilty conscience - guilty of an unholy

alliance - an alliance that requires the strictest scrutiny!

Respectfully submitted

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